

ROBERT E. H. MILLER, ESQUIRE
524 E. Johnson Street
Philadelphia Pa. 19144
Attorney for Petitioner

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

VS. CRIMINAL No. 13-669

JAMAHL SIMMONS

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TO: United States Department of Justice, United States Attorney, Eastern District of Pennsylvania.

MOTION TO SUPPRESS PHYSICAL EVIDENCE

The evidence was obtained by the police or other persons whose conduct constituted state action in violation of the defendant's rights under the United States Constitution and the Federal Rules of Criminal Procedure for the following reasons:

1. Defendant's arrest was illegal and unconstitutional because:
 - (a) he was arrested pursuant to an arrest warrant which was not issued on the basis of probable cause and/or which was obtained pursuant to material misstatements in the affidavit;
 - (b) he was arrested on the basis of evidence tainted by prior illegal police conduct;

2. Following the arrest of the defendant, illegal searches were made of his person, his abode, automobiles used or owned by him, as well as other locations and receptacles. Similar searches were made prior to and contemporaneous with his arrest. He did not consent to the search or seizure.

3. The said illegal searches resulted in the seizure of clothing, correspondence, reading and pictorial material, U. S. Currency and other material and items of property.

4. The seizures were the results of illegal searches carried on without legally efficacious warrants and/or without probable cause to do so, and not incident to an arrest and without the consent of the Petitioner.

5. The petitioner was subjected to an unconstitutional seizure of his person, as the stop, or other actions of the police were not based on objective reasonable suspicions or beliefs that he was involved in criminal activity.

6. A search was conducted which was illegal and unconstitutional because:

- (a) it was conducted without probable cause, since the information which the police relied upon was based on conclusions which had no basis in fact;
- (b) it was conducted pursuant to a search warrant which was not issued on the basis of probable cause and/or contained material misstatements in the affidavit submitted to obtain the warrant;
- (c) the information relied upon by the police officer was obtained from an unreliable

confidential informant;

(d) the information concerning the informant supplied by the affiant is false and the Petitioner intends to cross-examine on that point;

(e) it was conducted pursuant to a warrant that was not executed legally because before entry was made into the premises there was no reasonable effort by the police to give adequate notice of identity, authority and purpose to the occupants and/or a reasonable period of time to respond to this notice by police.

7. Any and all evidence which is the fruit of any illegal and/or unconstitutional action by the police or evidence obtained as a result of such action should be suppressed.

8. Counsel reserves the right to supplement the allegations in this motion as may become necessary after discovery, investigation and evidence is presented at the hearing for the Motion to Suppress Evidence.

FOR THE FOREGOING REASONS, the Petitioner respectfully request that the court grant Petitioner's MOTION TO SUPPRESS PHYSICAL EVIDENCE in its entirety or its appropriate parts.

RESPECTFULLY SUBMITTED,

ROBERT E. H. MILLER, ESQUIRE

Attorney for Petitioner

DATE: _____

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RULE

AND NOW, TO WIT, THIS DAY OF , 2014 on

consideration of the attached Motion, a rule is granted upon the Commonwealth of Pennsylvania to show cause as to why the attached petition, in the above matter, should not be granted.

RULE RETURNABLE, THE DAY OF
2014, IN COURTROOM , of the UNITED STATES COURT HOUSE for
the EASTERN DISTRICT OF PENNSYLVANIA at m.

BY THE COURT;

ROBERT E. H. MILLER, ESQUIRE
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Attorney for Petitioner

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ORDER

IT IS HEREBY ORDERED that the requested relief in the attached Petition is hereby granted, the MOTION TO SUPPRESS PHYSICAL EVIDENCE is GRANTED.

BY THE COURT

ROBERT E. H. MILLER, ESQUIRE
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VERIFICATION

I have examined this matter and from the available facts I certify that there is a proper and legal basis for the filing of this Motion, that the foregoing facts are true and correct to the best of my information, knowledge and belief and that this statement is made subject to the penalties of Law relating to unsworn falsification to authorities.

Robert E. H. Miller, Esq.
Attorney for Jamahl Simmons